# Lecture 15

Contract

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One the purchase department has decided to accept the final offer of the tendrer, he is issued an advance and final contract for the execution of the tender. The general conditions of the contract are given below.

# Definition

The words which are used commonly in the contract are usually defined in first paragraph like the words contract, contractor, delivery, government, specification, purchaser, inspector, inspection authority, material, particular, store, test, site etc. these words are explain with reference to the specific contract.

# Parties of the Contract

There are two parties to the contract one the contractor and other the purchaser whose name is in the invitation to the tender.

# Rights of the Purchaser

Unless the purchaser place purchase order he has the right:

To change the required quantity.

To remove any item from the list. ® To remove/cancel the enquiry.

# Reasons for not Considering a Tender

A tender can not be considered if it does not fulfil the required conditions.

If the offer is not clear/understandable.

If the tender is not signed.

If the tender is not received within specific time and date.

If a blacklisted firm or a firm whose registration was suspended place an offer.

If an unregistered firm place an offer without earnest-money.

# Validity of Offer

If a tenderer has not expressly mentioned the date of validity of offer, it is considered to be open for acceptance for 45 days and those days starts from the date of opening of the tenders.

If any tenderer withdraw or make any change in the original offer with in validity period, the purchaser has a right to keep the earnest money as plenty, in case of registered firm it can take action such as remove that firm from the approved contractors list.

# Earnest Money

The unregistered firm has to submit earnest money along with their tenders. It should be equal to the sum mentioned in the tender. It should be deposited in the form of deposit-at-call and it should be valid for specific time, mentioned in the tender enquiry. No other form of payment is accepted.

Carrying out a Contract General Principle

The contractor is solely responsible for the execution of the contract.

# Subletting of Contract

The contractor cannot sublet, transfer or assign the whole contract or any part of the contract to someone else without the permission of the purchaser. If contractor do this without purchaser's permission then he is liable for any loss or damage resulting due to subletting.

# Subletting the Contract with Permission

If the contractor sublet, transfers or assigns the contract to someone else with the written permission of the purchaser. The contract may be cancelled to provide payment directly to the sub-contractor, to whom the contractor has sub-contracted to complete the work.

# Raw Materials

If any material procure from the government or under permit or licence issued by the govt. for the completion of the contract. It is expected by the tenderer that he uses the material solely and economically for the completion of the particular contract against which it is issued and return extra material or material which is left after the completion of the contract. If the contract is cancelled because of the tenderer's fault. The tenderer will bear the freight charges for the return of the material.

# Control Price

If the government fixes a control price, the tenderer should not quote price more than that, and the price quoted should be reasonable. If the price quoted is more than fixed controlled price, reason should be given along with the tender.

# Security Deposit

If a tender is accepted the tenderer has to deposit the security deposit within given time, the amount is mentioned in the contract, but it should not be more than 10% of the tender value.and not less than Rs. 100/-. The security is furnished in the form of deposit -at-call in the name of the purchaser.

# Fail to provide security deposit

If a contractor fails to provide security deposit within a given period of time. The purchaser has the right to make other arrangements at the risk and expense of the contractor.

# Specifications

Generally the stores/goods should be of the best quality and comply with terms and conditions of the contract.

# Samples

All samples submitted by the tenderer must be clearly labeled with his name, address and contact number.

# Purchaser has no obligations

Purchaser has no obligation to pay charges and freight for the free samples, and their safe custody or return.

# Packing

It is contractor's responsibility to ensure that the packing of the goods is proper for transport by air, rail, road and by sea and the expense of packing will be paid by the contractor.

Delivery

# Time and Date of Delivery

It is very important that the stores/goods should be delivered within a specific time/period mentioned in the contract. The delivery date will be counted from the date of issue of the contract or from the date of the supply order.

# Failure to Deliver Store on time

If the contractor fails to deliver stores on time he would be held liable for the damages.

# Extension of Delivery Date

The tenderer should send an application for the extension of the delivery date, before 15 days of delivery date and explain the reasons for extension, if the purchase officer considers that the given reason is right/reasonable he can give extension in delivery date.

# Place of Delivery

The Place of delivery is mentioned in the contract. The purchaser may require that the tenderer should deliver the stores either on free delivery basis to consignee or F.O.B with in a specified time.

Inspection and Rejection

# Inspection

An inspector appointed by the purchasing authority can inspect and verifies that the stores are being or have been manufactured in accordance with the particulars given in the contract. He has full and free access to the contractor's works, and the contractor will bear all the expenses for this inspection.

# Rejection

The inspector can reject a part or the whole consignment after inspection, if he thinks that consignment is not up to the standard.

# Purchaser's Option

* Purchaser can allow contractor to resubmit stores in replacement of those rejected stores, with-in a specified time mentioned by the purchaser.
* Purchaser can buy the quantity of the stored rejected from some where else at the risk and cost of the contractor.
* Purchaser can cancel the contract and recover loss from the contractor.

# Recovery of Sums Due

Where under the contract any sum of money is recoverable from and payable by the contractor, the purchaser is entitled to recover such sum by appropriation in part or whole, the security deposited by the contractor. In the event of the security being insufficient or no security has been taken from the contractor then the balance or the total sum recoverable, as the case may be, is deducted from any sum then due or which at any time there after may become due to the contractor under this or any other contract with the purchaser or government or any other person or persons contracting through the purchaser. Should this sum be not sufficient to cover the full amount recoverable, the contractor shall pay to the purchaser on demand the remaining balance due. In the event of failure to pay any sum recoverable from the contractor, the same is recovered as arrears of land revenue.

# System of Payment

Generally payment for the delivery of the store is made to contractor on submission of bills in a prescribed form and according to the instruction given in the contract.

# Laws Governing the Contract

The contract is governed by the laws of Pakistan.

The marking of all stores supplied must comply with the requirements of the central acts relating to merchandise marks and of the rules made under such acts.

# Corruption

If contractor or anybody related to him or on his behalf offer any bribe, commission, gift etc to the purchaser or anybody related to him, in order to obtain/get undue advantage. The purchaser can cancel the contract and contractor would be liable for that.